

MICHAEL H. WAINWRIGHT and
T. SCOTT PERNICI
Plaintiffs

DOCKET # 599,021 SEC. B
1ST JUDICIAL DISTRICT COURT

VERSUS

PARISH OF CADDO

OLLIE TYLER and
BRIAN CRAWFORD
Defendants

STATE OF LOUISIANA

PETITION

NOW INTO COURT, come the Plaintiffs, MICHAEL H. WAINWRIGHT ("WAINWRIGHT"), a resident and domiciliary of Brevard, Transylvania County, North Carolina; and, T. SCOTT PERNICI ("PERNICI"), a resident and domiciliary of Caddo Parish, Louisiana, whom respectfully represent that:

1.

Made Defendants herein are OLLIE TYLER ("TYLER") and BRIAN CRAWFORD ("CRAWFORD"), individually, each of whom are individuals of the full age of majority and residents of Caddo Parish, Louisiana.

2.

That venue is proper under La. C. C. P. art. 42 and La. C. C. P. art. 74.

3.

This cause of action arises from a series of defamatory statements regarding PLAINTIFFS, made by TYLER and CRAWFORD during the months of October, November, and December 2016; and, January 2017.

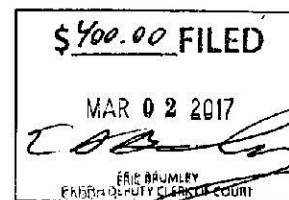
4.

This action involves public figures, TYLER – who, at all relevant times was the Mayor of the City of Shreveport; – and, CRAWFORD – who, at all relevant times, was the Chief Administrative Officer for the City of Shreveport – defaming private citizens, WAINWRIGHT and PERNICI.

5.

At all relevant times, TYLER and CRAWFORD were acting individually and/or in concert with one another.

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Page 1 of 15



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J. Harper

6.

All Defendants have made defamatory statements regarding WAINWRIGHT, PERNICI, and others, some of which are defamatory *per se*, and have either recklessly and maliciously or negligently communicated and published these defamatory statements to third parties, which defamatory statements were either known to be false; and/or were made with malicious intent and/or reckless disregard for the truth; and, which communications have harmed the reputations of the WAINWRIGHT and PERNICI.

FACTUAL BACKGROUND¹

7.

Prior to the filing of this action, and sometime in the first half of 2015, PERNICI examined his residential water bill and was unable to reconcile the amount he was billed for the gallons of water listed against the tier rates as established by City Ordinance #164 of 2015 (which established new rates for residential water use on a tier structure). PERNICI also reviewed the water bills of other family and friends.

8.

PERNICI then contacted WAINWRIGHT and asked him to research the Ordinance to see if he could reconcile the tier structure with the amounts being billed.

9.

After a sufficient number of water bills were accumulated, WAINWRIGHT and PERNICI were able to analyze the data in search of an explanation as to what formula the City was utilizing that caused the tier 1 and portions of the tier 2 water bills to correctly match up with the Ordinance, and discovered that the higher consumption water bills were being under billed by up to \$9.16 each month for in-city residential customers and up to \$18.32 each month for outside-city residential customers, which they estimate to add up to a loss of well over One Million (\$1,000,000) Dollars annually to the City's revenue.

1. For a complete recitation of the background facts of this Petition, please refer to *Sand Beach Properties, LLC v. City of Shreveport*, Docket No. 596,181-A, First Judicial District Court, Caddo Parish, Louisiana.

10.

WAINWRIGHT and PERNICI realized that their discovery could literally mean millions of dollars of new, additional revenue to the City of Shreveport over the course of the next twenty-five years and beyond, and they concluded after more research and due diligence, that the City was not sufficiently diligent nor did it have sufficient safeguards in place to either detect or correct its error on its own. The City has now acknowledged that it did not have the means to discover this error on its own.

11.

WAINWRIGHT and PERNICI understood that their research and due diligence was of very substantial value to the City under existing rate structure and they believed that the City of Shreveport would be very pleased to learn they could substantially enhance their revenues without having to pass any new ordinances or impose any new fees.

12.

Based on experience and other contingency fee contracts the City of Shreveport has routinely entered in the past, WAINWRIGHT and PERNICI expected that the City of Shreveport would be willing to pay them 25% of the additional revenues generated for just the first four years after the under billing was corrected, which would constitute only about four (4%) percent of the additional amounts the City would receive over the next twenty-five (25) years. WAINWRIGHT and PERNICI viewed the circumstances as a classic "win-win" opportunity.

13.

WAINWRIGHT and PERNICI decided that their discovery of the City of Shreveport's error should be vetted by an expert in the field of municipal water systems and billing to ensure that they had: (i) correctly interpreted the Ordinance, so they contacted Justin Haydel, President of Manchac Consulting Group, Inc.; (ii) correctly identified the error and identified the solution to correct the error; and, (iii) identified the likely party responsible for the error and how to reclaim the lost revenue from time period of the incorrect implementation.

14.

Manchac was able to arrange a meeting with City Attorney William Bradford.

15.

Prior to that meeting, and in order to accommodate the City of Shreveport's requirement that they receive some information about their findings and while still protecting the value of their research and calculations, a Confidentiality and Non-Disclosure Agreement (the "NDA") was prepared. The City Attorney was provided a copy of these documents in advance.

16.

On or about April 21, 2016, Attorney Bradford signed the NDA for and on behalf of the City of Shreveport and Manchac Consulting Group, Inc. signed on behalf of itself and on behalf of undisclosed principals, WAINWRIGHT and PERNICI.

17.

After execution of the NDA, Manchac made a presentation explaining the water billing error, the discovery, the reason for the error, how to implement the corrections, and to pursue the responsible party.²

18.

That same presentation was made once again on June 8, 2016, to Attorney Bradford, Chief Administrative Officer CRAWFORD and Department of Water & Sewerage Director Barbara Featherston.

19.

Prior to the presentation, CAO CRAWFORD and Director Featherston each signed an acknowledgement that the information being provided was Confidential Information covered by and subject to the NDA that the City of Shreveport had previously signed.

20.

Nearly immediately after the presentation ended, the City of Shreveport embarked on an unauthorized effort to have the water and sewerage department's billing specialist, Sharon Pilkinton, correct the billing program errors by utilizing the Confidential Information in clear and direct violation of the NDA (re)executed and acknowledged an hour earlier. The City concealed this and subsequent uses of the Confidential Information.

2. Under the terms of the NDA, the City of Shreveport was barred from disclosing or utilizing the Confidential Information without first obtaining consent from Manchac Consulting Group, Inc.

21.

On August 13, 2016, after the City failed to engage in good faith negotiations with Manchac regarding the Compensation Proposal, Manchac withdrew the Compensation Proposal.

22.

The error was corrected for the August 2016 billing cycle by the City of Shreveport without obtaining any authorization, consent or permission from Manchac Consulting Group, Inc. or Sand Beach Properties, LLC.

23.

Aware that the City was using the Confidential Information, on August 29, 2016, WAINWRIGHT wrote the TYLER, identifying himself as an undisclosed principal to the NDA and putting the City of Shreveport on notice of its blatant violation of the NDA and requested that the City execute the Agreement, and stated:

Absent such an agreement, we will reluctantly accept an adversarial role because it is the only position the City has left us. Unfortunately, fulfilling that role will not be possible without all of this being made public. That in turn, will inevitably draw the attention and interest of those who have been adversely affected by the shortfall in revenue and to others who will find it irresistible for their own political gain. It's hard to believe the City has distorted our good intentions into this.

24.

City Attorney William C. Bradford, Jr. responded on behalf of TYLER by Certified Mail, dated August 30, 2016, in which he admitted the City of Shreveport had implemented the corrective actions recommended under the NDA and made no claim that the City had first obtained consent, permission, or authority to utilize such information.

25.

On or around October 16, 2016, Sand Beach Properties, LLC, filed suit against the City of Shreveport for its breach of the NDA.³

3. See note 1 *supra*.

THE PRESENT ACTION

26.

On October 12, 2016, reporter Lex Talamo with the Shreveport Times wrote an article, which revealed the water billing error, a copy of which is attached hereto as Exhibit "P-1."

27.

In response to the October 12, 2016 article, on October 13, 2016, TYLER publicly issued, i.e. published, the following statement:

You may be aware of the article written in The Times newspaper regarding the under-billing in the water department. Although the billing system was set up prior to my administration, we have done due diligence on this error, as we have with many other problems we assumed when I entered this office. The problem has been corrected and is currently under investigation. When the matter was brought to our attention, once verified, the problem was immediately corrected. The outside parties involved demanded, initially \$250,000 for the information and a contract for future work. The last demand which threatened to expose this to the public rose to \$1.8 million. I have been steadfast in my convictions to not allow the City to be extorted or blackmailed on the backs of the citizens.

The fact that most of these outside parties have former ties or employment with the City gave me grave concern about the *true* source of this discovery and the motivation behind their efforts. I have been very transparent throughout my administration and will continue to do so. Consequently, we are providing all documentation and information related to this matter to the Department of Justice for its review.

The article also referred to bond coverage, but we had previously confirmed that this matter does not impact the ability of the City to issue necessary water and sewer bonds including those recently approved by the Council. Bond issuance depends on the ability of the City to cover the debt incurred based on audited collection figures. The City has never had a problem maintaining the coverage even prior to the error being detected. Because I refused to give in to the demands of these outside parties, they have now attempted to hurt this community by providing misleading information to the State Bond Commission which could impede our ability to meet the mandates of the Consent Decree. Interestingly enough, the City Attorney received a call today from the State Bond Commission regarding this matter. Be assured that we have consulted with bond counsel and state bond commission staff to verify that our issuances are not affected.

I will provide a complete report to the City Council and to the citizens of this community once the investigations are complete.

28.

The Statement was published in the Shreveport Times on October 14, 2016, a copy of which is attached hereto as Exhibit "P-2."

29.

The Statement was also published on KTBS on October 13, 2016, a copy of which is attached hereto as Exhibit "P-3."

On information and belief, prior to the publication of the October 12, 2016, article, The Shreveport Times interviewed TYLER on or around October 11, 2016. That interview, in part, was published to The Shreveport Times' website as part of a video news story.⁴ In that interview, TYLER states:

I stand by my statement that we will not be bullied or blackmailed into a situation where citizens' interest in their funds are possibly being extorted—I'm saying possibly—or, or for personal gain.

TYLER'S accusations of blackmail and extortion have been repeated and/or republished in, as well as repeated and/or restated to, the Shreveport Times, KSLA, KTBS, and KTAL; and have been republished on the websites of the Shreveport Times, KSLA, KTBS, and KTAL, and published in other media outlets numerous times, including but not limited to:

- (a) **KTBS** – October 13, 2016 – Both sides respond in \$1M Shreveport water billing error: "But the mayor says her office was **blackmailed** in the process" "But Mayor Ollie Tyler questions their motives. . . She went so far as to call it 'extortion'. . . Tyler adds that she's steadfast in her convictions not to be '**blackmailed**.'" The on-line posting included Mayor Tyler's Statement in its entirety.⁵
- (b) **RealShreveport.com** – October 13, 2016 PLEASE TELL ME THIS DIDN'T REALLY HAPPEN AT CITY HALL . . . PLEASE, PLEASE!: "Then, Mayor Tyler branded that as **attempted blackmail**, about which I suspect many will agree."⁶
- (c) **The Times** – October 14, 2016 – Water billing error sparks sharp reactions: "Mayor Ollie Tyler . . . also accused those who discovered the mistake of using insider knowledge, of trying to leverage their discovery into ongoing business with city government and, when she refused, of seeking to hurt the city's chance of winning approval of a municipal bond before the Louisiana Bond Commission." "Tyler wrote, 'I have been steadfast in my convictions to not allow the city to be **extorted or blackmailed** on the backs of the citizens.'"⁷
- (d) **KTBS** – October 14, 2016 – Questions surrounding million dollar water billing error remain unanswered: "Thursday, Mayor Ollie Tyler was calling the businessman's demand for payment '**blackmail**'" "The City administration is asking the U.S. Department of Justice to review the matter."⁸

4. That video is available at <http://www.shreveporttimes.com/videos/news/2016/10/13/92017246/>.

5. A copy of this article is attached hereto as Exhibit "P-4."

6. A copy of this article is attached hereto as Exhibit "P-5."

7. A copy of this article is attached hereto as Exhibit "P-6."

8. A copy of this article is attached hereto as Exhibit "P-7."

- (e) **The Times** – October 14, 2016 – Former mayor calls water billing error situation ‘highly irregular’: ‘Somebody had to know that the mistake existed and did not alert this administration in an attempt to **extort** funds, and that is unconscionable’ Tyler said.”⁹
- (f) **KTBS** – October 16, 2016 – Lawsuit filed against city over \$1 million water billing blunder: “The city has said that it is turning over “all documentation and information related to this matter to the U.S. Dept. of Justice for review.”¹⁰
- (g) **The Times** – October 17, 2016 – Lawsuit seeks up to \$200 million in water billing error: “Tyler said last week that she thought the city was being subjected to ‘**blackmail**’ . . . She says the matter remains under investigation.”¹¹
- (h) **KTBS** – December 22, 2016 – Shreveport underbills utility customers –again: “In an earlier statement, Tyler likened Pernici’s demands to **blackmail**.”¹²
- (i) **The Times** – January 3, 2017 – What to expect in 2017 in the SBC: “The second week of January will see lawsuits brought in the First Judicial District Court about the City of Shreveport situation with a water billing error that Mayor Ollie Tyler said amounted to ‘**blackmail**’ . . .”¹³
- (j) **KTBS** – January 10, 2017 – Judge refuses to dismiss water-billing lawsuit against city: “Before the city stopped commenting on the matter, Tyler likened Pernici’s demands to **blackmail**.”¹⁴
- (k) **USAToday Network** – **delawareonline.com** – October 13, 2016 and **Tennessean.com** – October 14, 2016 and **Cincinnati.com** – October 18, 2016 and **Statesman Journal** – October 18, 2016 each ran one of the above Times articles and quoted Mayor Ollie Tyler as saying “it was **wrong** and **dishonest**” and an “**attempt to extort funds**.”¹⁵

32.

WAINWRIGHT and PERNICI further aver on information and belief that TYLER communicated other defamatory statements about WAINWRIGHT and PERNICI at or about the same time, the exact nature and content of which will be obtained during discovery, which may cause the petition to be supplemented and amended.

9. A copy of this article is attached hereto as Exhibit “P-8.”

10. A copy of this article is attached hereto as Exhibit “P-9.”

11. A copy of this article is attached hereto as Exhibit “P-10.”

12. A copy of this article is attached hereto as Exhibit “P-11.”

13. A copy of this article is attached hereto as Exhibit “P-12.”

14. A copy of this article is attached hereto as Exhibit “P-13.”

15. A copy of each of these articles is attached hereto as Exhibit “P-14,” Exhibit “P-15,” Exhibit “P-16,” and Exhibit “P-17.”

33.

TYLER'S statements were communicated, with the full expectation that they would be republished to the general public, for the purpose of and with the foreseeable intent of, causing harm to WAINWRIGHT and PERNICI.

34.

TYLER'S defamatory statements were of and concerning; and, indirectly and directly cast a personal reflection on WAINWRIGHT and PERNICI.

35.

At the time of the public and published comments made by TYLER, upon information and belief, TYLER had no facts to support her defamatory accusations, which were made without benefit of a scintilla of effort to investigate or verify facts upon which such accusations should be founded.

36.

WAINWRIGHT and PERNICI further aver on information and belief, that TYLER used the public office she holds and the employees she supervises to direct a coordinated campaign of public statements in print and on radio and television, to maliciously communicate statements, which she knew or should have known, were untrue, with the intent to harm WAINWRIGHT and PERNICI.

37.

On or around October 14, 2016, KEEL Radio interviewed Defendant CRAWFORD, about the water billing error.¹⁶ During that interview, CRAWFORD made the following statements, alleging that WAINWRIGHT and PERNICI were somehow involved in criminal activity, and that WAINWRIGHT and PERNICI had reported the billing error to the State Bond Commission:

First, the company backs out of the picture we get a letter from an individual who doesn't live in our state and says: "Hey, no, I'm the person who discovered the error in the water bill and I want my money. And if I don't get my money, I'm going to make this public." So – Kind of like a shakedown thing; kind of a – threat. You – You know, make of it what you will, but the Mayor took it as a threat at that point

¹⁶ The audio of that interview is available at <http://710keel.com/cao-brian-crawford-talks-possible-water-billing-scandal-video/>.

... So then we learn – Then we learn from The Times article, the first time we've heard another name – A local businessman, now he says he's the one that discovered the error in the bills – and – and he wants to get paid. And so – and from the explanation I can tell was that he looked at his water bill and decided that something's not quite right. ...

... we brought in the Justice Department. We brought in – They brought in the FBI and we're going to have this thoroughly looked at because its – it's hard to fathom that just the random citizen out there would have stumbled across this information and we're trying to determine who inside the City had access to this information as well. ...

... We're looking to get the truth, but the main thing that I want to emphasize is that, you know, Mayor Tyler stands up for the citizens. You know – she's – she's not going to be bullied. She's not going to be, you know, whatever you call it – shaken down for, payment on something that you know whatever type of error. ...

... And they've also called the State Bond Commission to report us to the State Bond Commission in an attempt to derail some of our bond funding so this – this underfunding may affect that. Well, let me tell you what. We've already talked to the State Bond Commission; we've talked to their staff, we talked to our bond writer – This doesn't have anything to do with our ability to go out for bonds and fix water and sewer rates. That is determined strictly on auditable figures. So their – their plot there of trying to harm the City and the citizens in another way indirectly, has failed as well.

38.

WAINWRIGHT and PERNICI further aver on information and belief that CRAWFORD communicated other defamatory statements about WAINWRIGHT and PERNICI at or about the same time, the exact nature and content of which will be obtained during discovery, which may cause the petition to be supplemented and amended.

39.

CRAWFORD'S statements were communicated, with the full expectation that they would be republished to the general public, for the purpose of and with the foreseeable intent of, causing harm to WAINWRIGHT and PERNICI.

40.

CRAWFORD'S defamatory statements were of and concerning; and, indirectly and directly cast a personal reflection on WAINWRIGHT and PERNICI.

41.

At the time of the public and published comments made by CRAWFORD, upon information and belief, CRAWFORD had no facts to support his defamatory accusations, which

were made without benefit of a scintilla of effort to investigate or verify facts upon which such accusations should be founded.

42.

Furthermore, at the time of the public and published comments made by Defendant CRAWFORD and TYLER, neither Defendant had one scintilla of evidence that any contact was made by WAINWRIGHT, PERNICI, or any of the other "outside parties" with anyone at the Bond Commission regarding this matter.

43.

WAINWRIGHT'S and PERNICI'S observations that publication of water billing errors by the City has an adverse effect on the public's trust, is commonly known and indisputable; is an observation routinely noted in the City's own Internal Audits; and, clearly does not constitute blackmail or extortion.

44.

The DEFENDANTS' clear intent and unmistakable meaning of their defamatory statements must be interpreted not only from the words singled out as libelous but from the context as well, and the true meaning must be ascertained from a consideration of all parts of the statement as well as the circumstances of its publication.

45.

The use of the words **blackmail** and **extortion**, holding the City **hostage**, **bullying**, and **shakedown**, were purposefully designed and calculated to produce harm and create the negative impression they would naturally engender in the minds of the average persons among whom those labels were intended to circulate.

46.

The accusations of **blackmail** and **extortion**, holding the City **hostage**, **bullying**, and **shakedown**, coupled with a declaration that the matter is being referred to the U.S. Dept. of Justice for investigation, carry the unmistakable inference that WAINWRIGHT and PERNICI have engaged in criminal activity which constitutes defamation *per se*.

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47.

DEFENDANTS' statements were made with actual and implied malice with the intent to harm PLAINTIFFS' reputations and credibility as to lower their standing in the community; to deter others from associating or dealing with PLAINTIFFS and/or their business ventures; to otherwise expose PLAINTIFFS to contempt or ridicule; to defame, libel and/or slander PLAINTIFFS; to invade PLAINTIFFS' privacy; to expose PLAINTIFFS to criminal investigation; to damage PLAINTIFFS' present and future employment prospects; to intentionally interfere with contracts of PLAINTIFFS and their businesses; and to intimidate PLAINTIFFS.

48.

Despite the seriousness of these charges, DEFENDANTS proceeded to aggressively pin those labels on WAINWRIGHT and PERNICI despite the total absence of any factual support for those allegations.

49.

Upon information and belief, DEFENDANTS' efforts to discredit and harm WAINWRIGHT and PERNICI are motivated by a transparent attempt to divert attention from the fact the City had negligently implemented a new water tier billing system that resulted in a substantial sum of under billings, that the error had gone uncorrected for well over one year, and that the City had paid substantial sums to an outside contractor, Systems & Software, Inc. to set up, check and monitor that billing system.

50.

As a result of DEFENDANTS' actions, WAINWRIGHT and PERNICI incurred general, special, and pecuniary damages as set forth above, including, but not limited to damage to reputation and good standing in the community, as well as lost economic opportunity.

WHEREFORE, Plaintiffs MICHAEL H. WAINWRIGHT and T. SCOTT PERNICI, pray that judgment be rendered in favor of WAINWRIGHT and against the Defendants, OLLIE TYLER and BRIAN CRAWFORD, and that WAINWRIGHT and PERNICI be awarded reasonable damages to be determined at trial; along with legal interest, and court costs; an order

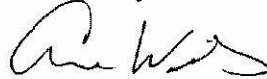
to formally, effectively, and publicly retract all defamatory statements that have been published thus far; and all good and equitable relief that this Honorable Court may deem fit under the circumstances of this case.

Respectfully Submitted,

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(A Professional Law Corporation)

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